
**ELIGIBILITY AND ASSISTANCE STANDARDS
CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)**

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CHAPTER 49-000 CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)

49-001 PROGRAM DEFINITION

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- .1 The Cash Assistance Program for Immigrants (CAPI) provides cash assistance to aged, blind, and disabled legal immigrants who are not citizens and who successfully complete an application process. The program must be administered by a county or consortium of counties and supervised by the department.

NOTE: Authority cited: Sections 10553, 10554, 18943, Welfare and Institutions Code. Reference: Section 18937, Welfare and Institutions Code.

49-005 SPECIAL DEFINITIONS

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- (a) (1) "Affidavit (New version)" refers to INS Form I-864, Affidavit of Support under Section 213A of the Immigration and Nationality Act (INA), which is completed and signed by the sponsor. Certain immigrants are inadmissible to the United States as an alien likely to become a public charge, unless a sponsor has executed a Form I-864. An affidavit of support is executed when a sponsor signs a Form I-864 before a notary public or an Immigration or Consular Officer and that Form I-864 is submitted to an Immigration or Consular officer. Under Section 213A of the INA, the new Affidavit is a legally enforceable contract between the sponsor and the Federal Government, for the benefit of the sponsored immigrant and of any Federal, State, or local government agency or entity that provides the sponsored immigrant with any means-tested public benefit. The new Affidavit is required for all applications for immigrant visas or for adjustment of status filed on or after December 19, 1997.
- (2) "Affidavit (Old version)" refers to INS Form I-134 that was signed prior to the formulation and implementation of the new version of the Affidavit (see (1) above).
- (b) (1) "Battered non-citizen, child of a battered spouse, or parent of a battered child" for purposes of determining Qualified Alien status under MPP Section 49-005(q)(1)(H) below means, per Section 431(c) of Public Law 104-193 as amended:

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- (A) Public Law 104-193, Section 431(c) as amended [8 U.S.C. Section 1641(c)] states:

"(c) Treatment of Certain Battered Aliens as Qualified Aliens. For purposes of this title, the term 'qualified alien' includes--

"(1) an alien who--

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49-005	SPECIAL DEFINITIONS (Continued)
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"(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) has been approved or has a petition pending which sets forth a prima facie case for--

"(i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

"(ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act,

"(iii) cancellation of removal under section 240A of such Act (as in effect prior to April 1, 1997)',

"(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act;

"(v) cancellation of removal pursuant to section 240A(b)(2) of such Act;

"(2) an alien --

"(A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(3) an alien child who --

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49-005	SPECIAL DEFINITIONS (Continued)
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"(A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) who meets the requirement of 'subparagraph (B) of paragraph (1)'; or

"This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty."

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- (c) (1) "Consortium" means a group of counties that have jointly agreed to have the CAPI program in each individual county administered by a single lead county within the group.
- (d) (Reserved)
- (e) (1) "Eligible Couple" means an eligible individual and his or her eligible spouse.
- (2) "Eligible individual" means an aged, blind, or disabled individual who meets all the requirements for CAPI eligibility.
- (3) "Eligible spouse" means an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual and who is living with that individual. (For purposes of calculating the CAPI benefit, a spouse who is receiving SSI/SSP will be considered an eligible spouse.)
- (f) (Reserved)
- (g) (Reserved)
- (h) (1) "Household" means a personal place of residence in which the individual(s) share common living quarters and function as a single economic unit. For purposes of determining living arrangements and in-kind support and maintenance, members of a household need not be related by blood or marriage, but must live together in a single dwelling and function as an economic unit. A person who is temporarily absent from a household is still a member of the household.

49-005 SPECIAL DEFINITIONS (Continued)

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- (2) "Household operating expenses" means the household's total monthly expenditures for food, rent, mortgage, property taxes, heating fuel, gas, electricity, water, sewer, and garbage collection service, except where those expenditures are paid for by someone outside the household.
- (i) (1) "Ineligible parent" means a natural or adoptive parent or the parent's spouse who is not eligible for CAPI or SSI/SSP and lives with a minor child who is the CAPI applicant or recipient.

(2) "Ineligible spouse" means someone living with the applicant or recipient as husband or wife who is not eligible for CAPI or SSI/SSP.
- (j) (Reserved)
- (k) (Reserved)
- (l) (Reserved)
- (m) (Reserved)
- (n) (Reserved)
- (o) (Reserved)
- (p) (1) "Presumed Maximum Value" (PMV) means the maximum value that can be attributed to in-kind support and maintenance received by the applicant or recipient for purposes of determining the countable income. The value of the PMV is equal to one-third of the federal SSI benefit plus \$20.

(2) "Pro Rata Share" means the average monthly household operating expenses (based on a reasonable estimate if exact figures are not available) divided by the number of people in the household, regardless of age.

(3) "PRUCOL" means persons who are Permanently Residing Under Color of Law and refers to non-citizens residing in the United States with the knowledge and permission of the Immigration and Naturalization Service (INS), and the INS does not contemplate enforcing their departure. For CAPI purposes, PRUCOL refers to the specific non-citizen categories listed in 20 CFR 416.1618 unless the category is also listed in the definition of Qualified Alien listed below. The PRUCOL categories for CAPI purposes are:

 - (A) A non-citizen subject to an Order of Supervision.
 - (B) A non-citizen on whose behalf an immediate relative petition (INS Form I-130) has been approved and who is entitled to voluntary departure.

49-005 SPECIAL DEFINITIONS (Continued)**49-005**

- (C) A non-citizen who has properly filed an application for an adjustment to lawful permanent resident status.
 - (D) A non-citizen granted a stay of deportation for a specific period of time.
 - (E) A non-citizen granted voluntary departure who is awaiting issuance of a visa, Section 242 of the INA.
 - (F) A non-citizen in deferred action status.
 - (G) A non-citizen who entered and has continuously resided in the United States since before January 1, 1972 or any date established by Section 249 of the INA.
 - (H) A non-citizen granted a suspension of deportation whose departure INS does not contemplate enforcing pursuant to Section 244 of the INA.
 - (I) A non-citizen granted an indefinite stay of deportation.
 - (J) A non-citizen not in one of the above categories, who can show that: (1) INS knows he/she is in the United States; and (2) INS does not intend to deport him/her, either because of the person's status category or individual circumstances.
- (q) (1) "Qualified Alien" means non-citizens who meet the definition of Qualified Alien as described in Section 431 of Public Law 104-193, as amended. Falling within that definition of Qualified Alien is any non-citizen who is:
- (A) Lawfully Admitted for Permanent Residence (LAPR).
 - (B) Granted Cuban/Haitian entrant status. (Section 501(e) of the Refugee Education Assistance Act of 1980).
 - (C) A refugee who entered the United States under Section 207 of the INA.
 - (D) Granted status as an asylee under Section 208 of the INA.
 - (E) A non-citizen whose deportation is being withheld under Section 243(h), or whose removal is being withheld under Section 241(b)(3) of the INA.
 - (F) A non-citizen paroled into the United States for a period of at least one year under Section 212(d)(5) of the INA.
 - (G) A conditional entrant admitted to the United States under Section 203(a)(7) of the INA as in effect before April 1, 1980.

49-005 SPECIAL DEFINITIONS (Continued)

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- (H) A battered non-citizen, child of a battered spouse, or parent of a battered child (as defined in MPP Section 49-005(b)(1) above) with a petition pending under Section 204(a)(1)(A) or (B) or 244(a)(3) of the INA.
- (r) (Reserved)
- (s) (1) "Sponsor" means a person who has executed an affidavit of support agreeing to support an immigrant as a condition of the immigrant's admission for permanent residence in the United States.
- (2) "Sponsored immigrant" means an immigrant on whose behalf a sponsor has executed an affidavit of support.
- (3) "Spouse", for CAPI purposes, means a husband or wife under any of the following conditions:
- (A) Legally married under the laws of California, or the state where the applicant/recipient and he or she had their permanent residence while living together.
- (B) Either member of the couple is entitled to husband's or wife's Social Security insurance benefits as the spouse of the other.
- (C) The applicant or recipient and an unrelated person of the opposite sex are living together in the same household and both lead people to believe that they are husband and wife.
- (4) "SSI/SSP" means Supplemental Security Income/State Supplementary Payment and refers to the federal (SSI) and state (SSP) funded program that provides cash assistance to aged, blind, and disabled residents of California.
- (5) "Substantial Gainful Activity" (SGA) means work activity that involves doing significant physical or mental activities and that is usually done for pay or profit, whether or not a profit is realized. Average earnings of more than \$500 per month ordinarily indicate an applicant or recipient is engaged in SGA.
- (6) "Suspension" of benefit payments means a stoppage of CAPI benefits. It is always effective the first day of a month in which an individual no longer meets all eligibility requirements.
- (t) (1) "Termination" of eligibility is an event that requires an individual to file a new application to receive CAPI benefits. It occurs after 12 consecutive suspension months, or as a result of one of the events in MPP Section 49-060.2.

49-005 SPECIAL DEFINITIONS (Continued)**49-005**

- (u) (Reserved)
- (v) (Reserved)
- (w) (Reserved)
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

NOTE: Authority cited: Sections 10553, 10554, 18943, Welfare and Institutions Code. Reference: 8 CFR, Part 213a; 20 CFR 416.105 through .110; 20 CFR 416.120; 20 CFR 416.972; 20 CFR 416.974; 20 CFR 416.1133; 20 CFR 416.1140; 20 CFR 416.1160; 20 CFR 416.1321; 20 CFR 416.1618; 20 CFR 416.1806; 20 CFR 416.2001; Program Operations Manual System SI 02301.201; Section 213a of the Immigration and Nationality Act, and Sections 18937 and 18940, Welfare and Institutions Code.

**49-010 ELIGIBILITY FOR CASH ASSISTANCE PROGRAM
FOR IMMIGRANTS (CAPI)****49-010**

- .1 To be eligible for the CAPI a person must complete the application process and meet all of the following conditions:
 - .11 Be a non-citizen and meet appropriate immigration status provisions described in MPP Section 49-020.
 - .12 Be age 65 or over, blind, or disabled as defined for SSI/SSP purposes in 20 CFR Part 416.
 - .13 Be ineligible for SSI/SSP solely due to his or her immigration status under Title IV of Public Law 104-193.
 - .14 Reside in California.
 - .15 Not have more income than is permitted.
 - .16 Not have more resources than are permitted.
 - .17 Meet all other current SSI/SSP eligibility criteria as described in 20 CFR Part 416 or Title XVI of the Social Security Act, except as modified by CAPI regulations beginning with Section 49-001.

49-010	ELIGIBILITY FOR CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI) (Continued)	49-010
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.2 A person is NOT eligible for CAPI if he or she:

.21 Is a resident of a public institution for an entire calendar month.

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.211 20 CFR 416.201 states as follows:

"Public institution means an institution that is operated by or controlled by the Federal government, a State, or a political subdivision of a State such as a city or county. The term public institution does not include a publicly operated community residence which serves 16 or fewer residents." The most common examples of public institutions are jails, prisons, and VA Hospitals.

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.22 Flees to avoid prosecution, or custody or confinement after conviction for a crime which is a felony under the laws of the place from which the person flees.

.23 Violates a condition of probation or parole imposed under federal or state law.

.24 Resides outside of the United States for 30 or more days in a row or for an entire calendar month.

.241 A person who has been ineligible for residing outside of the United States remains ineligible for at least 30 consecutive days after returning to the United States.

.25 Fails to file for all other possible benefits as described in MPP Section 49-045.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 20 CFR 416.210; 20 CFR 416.211; 20 CFR 416.215; 20 CFR 416.2010; P.L. 104-193, Section 202 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and Sections 12003, 18937, 18938, and 18940, Welfare and Institutions Code.

49-013	ADMINISTRATION	49-013
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.1 Counties, or consortia of counties, must administer this program in accordance with the federal laws, regulations, policies and instructions that govern the SSI/SSP program, unless otherwise instructed by these regulations (MPP Section 49-001 et seq.) or other departmental instructions.

49-013 ADMINISTRATION (Continued)**49-013**

- .2 This program must be administered under the administrative standards set forth in MPP Section 10-001 et seq. and under the civil rights standards set forth in MPP Section 21-001 et seq. unless specifically instructed otherwise by these regulations or other departmental instructions.
- .3 The case record for persons found eligible as specified in MPP Section 49-010 must include:
 - .31 The information and evidence used by the county to establish age, blindness, disability, and non-citizen status.
 - .32 The information regarding the recipient's property, income, and living arrangements used by the county or consortium in determining eligibility. Such information must be recorded on a dated statement of facts form which must be signed by the recipient or his or her authorized representative under penalty of perjury.
 - .33 Verification of this information under the guidelines established by the Social Security Administration (SSA) for its administration of the SSI/SSP program as set forth in SSA's Program Operations Manual System (POMS). The county or consortium may verify other information if necessary to insure a correct eligibility determination.
 - .34 The computation of the benefit amount.
 - .35 Documentation of all contacts with the recipient or any other individual or organization regarding the recipient or the recipient's case.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code.
Reference: Sections 10600, 10603, 18937, and 18940, Welfare and Institutions Code.

49-015 APPLICATION PROCESS**49-015**

- .1 To be eligible for CAPI, all persons seeking a CAPI benefit must:
 - .11 Sign the completed CAPI application form(s).
 - .111 Each member of a couple who is seeking CAPI benefits must sign the completed application form(s).
 - .12 Submit the form(s) to the county welfare department.
 - .13 Provide all documentation and information requested by the county welfare department.
- .2 Upon receiving a CAPI application, counties, or their designee if they are part of a CAPI consortium of counties, have the following responsibilities:

49-015	APPLICATION PROCESS (Continued)	49-015
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- .21 Inform applicants and recipients of their rights and responsibilities in relation to eligibility for CAPI.
 - .22 Assisting applicants and recipients as needed to establish their eligibility.
 - .23 Correctly determining eligibility and payment amount.
 - .24 Issuing timely and accurate notices to the applicants and recipients in accordance with MPP Sections 22-071 and 22-072.
 - .25 Issuing or requesting issuance of CAPI payments.
 - .251 Counties or consortium of counties may request the department to issue CAPI benefits on their behalf.
 - .26 When appropriate, take all steps necessary to qualify CAPI benefits for reimbursement under the federal Interim Assistance Reimbursement program operated by the Social Security Administration.
- .3 Any person seeking CAPI benefits who is 18 years old or over must sign his or her own application unless the person is mentally incompetent or physically unable to sign the application.
- .31 A court appointed representative or a person who is responsible for the care of the applicant, including a relative, may sign the application on behalf of an applicant who is under age 18, mentally incompetent, or physically unable to sign the application.
 - .32 A person who signs an application on behalf of someone else is required to provide evidence of his or her authority to act for the applicant.
 - .33 An inquiry or an application signed by someone other than a person described in MPP Section 49-015.31 may be used solely for the purpose of establishing a protective filing date.
- .4 In order to be allowed, an application may be filed no earlier than the month prior to the month that all eligibility factors are met.
- .41 The effective date of benefit payments is the first of the month following the later of the date the application is filed or the date the individual would otherwise become eligible for benefits.

49-015	APPLICATION PROCESS (Continued)
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- .42 Example: Mr. Jones will attain age 65 on March 29, 1999. He can file an application as early as February 1, 1999, but his CAPI benefits will not be effective until April 1, 1999.

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NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 20 CFR 416.200, 20 CFR 416.203; 20 CFR 416.315; 20 CFR 416.320; 20 CFR 416.330; P.L. 104-193, Section 204 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and Sections 18937, 18938, 18940, and 18944, Welfare and Institutions Code.

49-020 IMMIGRATION STATUS**49-020****.1 General requirements**

- .11 To be eligible for CAPI, a non-citizen must be a legal immigrant and meet the immigration status requirements in effect for SSI/SSP on August 21, 1996.
- .12 The previous SSI/SSP requirements for immigrant status, found in 20 CFR 416.1600, stated that a non-citizen had to be a resident of the United States and an alien lawfully admitted for permanent residence in the United States, or an alien permanently residing in the United States under color of law (PRUCOL). This means the individual had to have a status listed under either "Qualified Alien" or "PRUCOL" in Section 49-005.

.2 Specific eligibility requirements for individuals whose date of entry into the United States was prior to August 22, 1996.

- .21 Qualified Aliens as defined in MPP Section 49-005(q)(1) who were lawfully residing in the United States on August 21, 1996 must be age 65 or older to be eligible for CAPI.
- .22 Non-citizens who do not meet the definition of Qualified Alien must meet the other immigration standards in effect for SSI/SSP on August 21, 1996, which are known as the PRUCOL categories as defined in MPP Section 49-005(p) to be eligible for CAPI.
- .221 Individuals in this group can establish eligibility under any one of the three basic eligibility criteria (aged, blind or disabled).

.3 Specific eligibility requirements for individuals who legally entered the United States on or after August 22, 1996.

49-020	IMMIGRATION STATUS (Continued)	49-020
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.31 To be eligible for CAPI, an immigrant who legally entered the United States on or after August 22, 1996 must be sponsored and one of the following must apply:

.311 The sponsor is deceased.

(a) The applicant must provide evidence that his or her sponsor has died.

.312 The sponsor is disabled as defined in Welfare and Institutions Code Section 11320.3(b)(3)(A).

(a) The applicant must provide verification of the sponsor's disability.

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(b) Welfare and Institutions Code Section 11320.3(b)(3)(A) states:

"The individual is disabled as determined by a doctor's verification that the disability is expected to last at least 30 days and that it significantly impairs the recipient's ability to be regularly employed or participate in welfare-to-work activities, provided that the individual is actively seeking appropriate medical treatment."

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.313 The applicant is a victim of abuse by the sponsor or the sponsor's spouse. Abuse is defined in the same manner as provided in Welfare and Institutions Code Sections 11495.1 and 11495.12.

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- (a) Welfare and Institutions Code Section 11495.12 states:

"For purposes of this article, until regulations are adopted pursuant to Section 11495.1, the term "abuse" means battering or subjecting a victim to extreme cruelty by (1) physical acts that resulted in or threatened to result in physical injury, (2) sexual abuse, (3) sexual activity involving a child in the home, (4) being forced to participate in nonconsensual sexual acts or activities, (5) threats of, or attempts at, physical or sexual abuse, (6) mental abuse, (7) neglect or deprivation of medical care, or (8) stalking."

- (b) Welfare and Institutions Code Section 18938(A)(4) states in part:

"(A)(4) ...A sworn statement of abuse by a victim, or the representative of the victim if the victim is not able to competently swear, shall be sufficient to establish abuse if one or more additional items of evidence of abuse is also provided. Additional evidence may include, but is not limited to the following:

"(i) Police, government agency, or court records or files.

"(ii) Documentation from a domestic violence program, legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with abuse.

"(iii) A statement from any other individual with knowledge of the circumstances that provided the basis for the claim.

"(iv) Physical evidence of abuse.

"(B) If the victim cannot provide additional evidence of abuse, then the sworn statement shall be sufficient if the county makes a determination documented in the case file that the applicant is credible."

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NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 20 CFR 416.1600; P.L. 104-193 as amended, Sections 401 and 402 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and Sections 18938 and 18940, Welfare and Institutions Code.

49-025	AGE AND DISABILITY	49-025
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- .1 To be eligible for CAPI as an aged individual, a person must be 65 years of age or older.
 - .11 An applicant must submit evidence of his or her date of birth in accordance with federal regulations.
 - .111 An applicant whose age is a condition of eligibility must submit a public record of birth, or a religious record of birth or baptism recorded before age 5, if available. If such records are not available, other evidence may be submitted to establish the applicant's date of birth. If the applicant alleges to be at least age 68, any document submitted that is at least 3 years old will be sufficient.
- .2 To be eligible for CAPI as a blind individual, a person must meet the requirements specified in 20 CFR 416.981 et seq. for the SSI/SSP program.

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- .21 A person who is determined to be statutorily blind is considered blind for purposes of SSI/SSP eligibility as stated in 20 CFR 416.981:

"Statutory blindness is central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which has a limitation in the field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees is considered to have a central visual acuity of 20/200 or less."

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- .22 The Department's Disability and Adult Programs Division is responsible for making all blindness and disability determinations for CAPI.
 - .221 A current determination of blindness established for Title II Social Security, SSI/SSP, or Medi-Cal can be used to establish blindness for CAPI. A current determination is one that has not lapsed due to benefit termination.

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- .222 Medical History and related forms must be completed and transmitted to the State Programs Branch of the Disability and Adult Programs Division along with any other medical documentation. The required forms are the MC 220, MC 221, and MC 223 and must be annotated with the identifier "CAPI CASE".

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49-025 AGE AND DISABILITY (Continued)**49-025**

- .3 To be eligible for CAPI as a disabled individual, a person must meet the requirements specified in 20 CFR 416.901 et seq. for the SSI/SSP program.

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- .31 20 CFR 416.905(a) defines disability for adults as follows:

"(a) The law defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." To meet this definition, applicants must have a severe impairment, which makes them unable to do their previous work or any other substantial gainful activity which exists in the national economy. To determine whether a person is able to do any other work, SSA considers a person's residual functional capacity, age, education, and work experience."

- .32 20 CFR 416.906 defines disability for children under age 18 as follows:

"If you are under age 18, we will consider you disabled if you have a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months...."

HANDBOOK ENDS HERE

- .33 Any child or adult who is engaging in substantial gainful activity at the time of filing a new CAPI application will not be considered disabled.
- .34 The Department's Disability and Adult Programs Division is responsible for making all blindness and disability determinations for CAPI.
- .341 A current determination of disability established for Title II Social Security, SSI/SSP or Medi-Cal can be used to establish disability for CAPI. A current determination is one that has not lapsed due to benefit termination.

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- .342 Medical History and related forms must be completed and transmitted to the State Programs Branch of the Disability and Adult Programs Division along with any other medical documentation. The required forms are the MC 220, MC 221, and MC 223 and must be annotated with the identifier "CAPI CASE".

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- .4 Counties may make a Presumptive Disability determination while awaiting the formal disability or blindness determinations from the State Programs Branch.
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- .41 The Presumptive Disability decision may only be made when the applicant meets specific diagnoses listed below:
- (a) Amputation of two limbs.
 - (b) Amputation of a leg at the hip.
 - (c) Allegation of total deafness.
 - (d) Allegation of total blindness.
 - (e) Allegation of bed confinement or immobility without a wheel chair, walker or crutches, due to a long-standing condition (excluding recent accident or recent surgery).
 - (f) Allegation of stroke (cerebral vascular accident) more than 3 months in the past and continued marked difficulty in walking or using a hand or arm.
 - (g) Allegation of cerebral palsy, muscular dystrophy, or muscle atrophy and marked difficulty in walking (e.g., use of braces), speaking, or coordination of hands or arms.

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49-025 AGE AND DISABILITY (Continued)**49-025**

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- (h) Allegation of diabetes with amputation of foot.
- (i) Allegation of Down's Syndrome.
- (j) Allegation of severe mental deficiency made by another individual filing on behalf of the claimant who is at least 7 years old. (For example: A mother filing for benefits for her child states that the child attends (or attended) a special school, or special classes in school, because of mental deficiency or, is unable (or was unable) to attend any type of school, and requires care and supervision of routine daily activities.)
Note: "mental deficiency" means mental retardation. This category pertains to individuals who depend upon others for meeting personal care needs such as hygiene and for doing other routine activities which grossly exceeds age-appropriate dependence as a result of mental retardation.
- (k) A child is age 6 months or younger and the birth certificate or other evidence (e.g., hospital admission summary) shows a weight at birth below 2 pounds, 10 ounces (1,200 grams).
- (l) Human immunodeficiency virus (HIV) infection (accompanied by a medical-source statement regarding manifestations of illness.)
- (m) A child is 6 months or younger and available evidence (e.g., hospital admission summary) shows a gestational age at birth as follows:
- | Gestational Age (in weeks) | Birth Weight |
|----------------------------|--------------------------------------|
| 37-40 | Less than 2,000 grams (4 lbs. 6 oz.) |
| 36 | 1,875 grams or less (4lbs. 2 oz.) |
| 35 | 1,700 grams or less (3 lbs. 12 oz.) |
| 34 | 1,500 grams or less (3 lbs. 5 oz.) |
| 33 | 1,325 grams or less |
- (n) A physician or knowledgeable hospice official confirms an individual is receiving hospice services due to terminal cancer.

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49-025	AGE AND DISABILITY (Continued)	49-025
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- .42 To be eligible for CAPI benefits based on a finding of presumptive disability, a person must meet all other eligibility criteria.
- .43 CAPI payments based on presumptive disability cannot be made for longer than 6 months.
- .44 Payments based on a presumptive disability are not considered overpayments if the applicant is ultimately determined to be not blind or disabled.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 20 CFR 404.1505; 20 CFR 404.1581; 20 CFR 416.202; 20 CFR 416.906; 20 CFR 416.920; 20 CFR 416.931 through .944; 42 CFR 435.530; 42 CFR 435.540, and Sections 18937 and 18940, Welfare and Institutions Code.

49-030	INELIGIBILITY FOR SSI/SSP	49-030
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- .1 To be eligible for CAPI, an individual must be ineligible for SSI/SSP solely due to his or her immigration status.
 - .11 Ineligibility must be verified by one of the following:
 - .111 Formal denial letter from the Social Security Administration (SSA) issued after August 1, 1998 and within 6 months of the CAPI application that states the person is ineligible for SSI/SSP due to immigration status.
 - .112 Informal denial letter or other communication from SSA issued after August 1, 1998 and within 6 months of the CAPI application that indicates the person is ineligible for SSI/SSP due to immigration status.
 - .113 A county determination that the applicant is not a Qualified Alien as defined in MPP Section 49-005(q)(1).
- .2 Verification that an SSI/SSP application has been filed with SSA and is pending a final determination may be used to meet the SSI/SSP ineligibility requirements in lieu of the evidence outlined in MPP Section 49-030.11.
 - .21 For purposes of this Section, an SSI/SSP application also includes a pending appeal if the issue under appeal is:

49-030 INELIGIBILITY FOR SSI/SSP (Continued)

49-030

- .211 Related to the applicant's disability; or
 - .212 Related to the person's immigration status.
- .22 Counties must complete the SSI/SSP application with SSA or otherwise initiate the SSI/SSP application process in accordance with instructions issued by the department on behalf of any applicant who cannot present any of the evidence listed in MPP Sections 49-030.111 through .113, or MPP Section 49-030.2.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: Sections 18938 and 18939, Welfare and Institutions Code.

49-035 INCOME

49-035

- .1 To be eligible for CAPI, an individual's or couple's countable income must be lower than the appropriate CAPI payment standard.
 - .11 Countable income means the amount that is left after subtracting any exclusions or disregarded amounts from an individual's gross income, plus that of a spouse or ineligible parent living in the same household. Disregarded amounts can include allocations for ineligible spouses, parents and children in the deeming process.
 - .12 Detailed income rules are found in 20 CFR, Part 416, Subpart K.
- .2 The definition of income for CAPI purposes is the same as the one used for SSI/SSP and is found in 20 CFR 416.1102.

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- .21 20 CFR 416.1102 states:

"Income is anything you receive in cash or in kind that you can use to meet your needs for food, clothing, and shelter. Sometimes income also includes more or less than you actually receive (see §416.1110 and §416.1123(b)). In-kind income is not cash, but is actually food, clothing, or shelter, or something you can use to get one of these."

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- .22 Earned income is counted differently than unearned income.

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49-035 INCOME (Continued)**49-035**

- .5** Unearned income consists of all income that is not earned income and includes, but is not limited to, annuities, pensions, alimony, support payments, dividends, interest, rental income, prizes, gifts, gambling winnings, and in-kind support and maintenance.
- .51** In-kind support and maintenance means any food, clothing, or shelter that an applicant receives because someone else pays for or provides it.
- .511** Shelter includes room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewer, and garbage collection services.
- .52** In-kind support and maintenance is valued in two different ways:
- .521** When an applicant or recipient is living in another person's (relative or non-relative) household for an entire calendar month and receives both food and shelter from that person, the applicant or recipient is subject to the reduced needs CAPI payment standard.
- (a) The reduced needs payment standard is used regardless of the actual value of the in-kind support and maintenance received in this situation.
- (b) A person subject to the reduced needs payment standard cannot be charged with any other in-kind support and maintenance income.
- (c) A person who pays a pro rata share of the household's food and/or shelter costs cannot be subject to the reduced needs payment standard.
- .522** In-kind support and maintenance is charged as unearned income subject to the presumed maximum value when it is received in all situations other than the one described in MPP Section 49-035.521.
- (a) The value of the in-kind support and maintenance income charged equals the lesser of its actual value or the presumed maximum value.
- .53** Unearned income exclusions are applied in the following order:
- (a) Unearned income excluded by other federal laws listed in the appendix of Subpart K of 20 CFR Part 416.
- (b) Any public agency's refund of taxes paid on real property or food.
- (c) Assistance based on need which is wholly funded by a state or political subdivision.

49-035	INCOME (Continued)	49-035
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- (d) Any portion of a grant, scholarship, or fellowship used for paying tuition, fees, or other necessary educational expenses other than food, clothing, or shelter.
- (e) Food raised and consumed by the applicant or other household members.
- (f) Assistance received under the Disaster Relief and Emergency Assistance Act.
- (g) Up to \$20 of irregular and infrequent income received no more than once in a calendar quarter.
- (h) Alaska Longevity Bonus payments.
- (i) Payments for providing foster care to an ineligible child who was placed in the applicant's or recipient's home by a public or private nonprofit agency.
- (j) Interest earned on excluded burial funds.
- (k) In-kind home energy assistance provided by a non-profit agency or utility company.
- (l) One-third of support payments made to or for a child from an absent parent.
- (m) The first \$20 of any unearned income in a month other than income based on need.
- (n) Any unearned income used to fulfill an approved plan to achieve self support for blind and disabled persons under age 65 or persons who received CAPI benefits as a blind or disabled individual for the month prior to age 65.
- (o) The value of any Federal Housing subsidies.
- (p) Interest earned on excluded burial space.
- (q) The value of any commercial transportation ticket for United States travel (including Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands) that is received as a gift.
- (r) Payments from a state fund to aid victims of crime.
- (s) Relocation assistance provided by a state or local government.
- (t) Hostile fire pay received from one of the uniformed services pursuant to United States Code 310.

49-035 INCOME (Continued)**49-035**

.6 The following things that may be received by a recipient or applicant are not income because they are not and cannot be converted to food, clothing, or shelter or they represent the proceeds from the sale or conversion of a person's property.

.61 Medical care and services.

.62 Social services.

.63 Receipts from the sale, exchange, or replacement of a resource.

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.631 Example: Money received from the sale of a recipient's automobile is not income; it is a conversion to another type of a resource.

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.64 Income tax refunds.

.65 Payments by credit life or credit disability insurance. Payments made under a credit life or credit disability insurance policy on the applicant's or recipient's behalf is not income.

.66 Proceeds of a loan. Money borrowed or money received as a repayment of a loan is not income. However, interest received on money a recipient or applicant has lent is income.

.67 Replacement of income that has been lost, destroyed, or stolen is not income. The original payment that was lost, destroyed, or stolen, however, is counted as income.

.68 Weatherization assistance, e.g., insulation, storm doors and windows.

.69 Any item received (except food, clothing, or shelter) which would be an excluded nonliquid resource if retained.

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.691 Example: Receipt of a car with a current market value of less than \$4500 by a person who owns no other vehicles is excluded because it would be an excluded resource and it is not food, clothing, or shelter.

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49-035 INCOME (Continued)**49-035**

- .7** Deemed income is the amount of another person's income that is considered to belong to the applicant or recipient regardless of whether the other person actually makes the money available to the applicant or recipient.
- .71** The steps used in the deeming process are the same as those used to determine SSI/SSP eligibility and benefit amount. Unless otherwise modified by these regulations or other instructions issued by the department, counties must follow the detailed rules found in 20 CFR 416.1160 et seq.
- .72** There are three categories of individuals whose income may be deemed to an applicant or recipient.
- .721** Ineligible spouse who is living in the same household as the applicant or recipient.
- .722** Ineligible parent(s) who is living in the same household as the minor applicant or recipient.
- (a) Deeming from an ineligible parent(s) to a child stops effective with the month following the month in which the child attains age 18.
- .723** Sponsor of a non-citizen, regardless of where the sponsor is living.
- (a) The sponsor's income also includes the sponsor's spouse's income if the sponsor and the spouse live in the same household.
- (b) The length of the deeming period depends on which version of Affidavit of Support [as defined in MPP Section 49-005(a)] the sponsor signed.
- (c) Deeming from a sponsor who signed a new Affidavit of Support applies unless or until one of the following occurs:
- (1) The sponsor dies.
- (2) The non-citizen becomes a naturalized citizen.
- (3) The non-citizen is credited with 40 quarters of coverage as defined under Title II of the Social Security Act.
- (4) The non-citizen, the non-citizen's minor child, or the non-citizen's parent if the non-citizen is a minor child is a victim of abuse as defined in MPP Section 49-020.313, and the victim is living in a different household than the abuser.

49-035 INCOME (Continued)**49-035**

- (d) Deeming from a sponsor who signed an old Affidavit of Support applies unless or until one of the following occurs:
 - (1) The sponsor dies.
 - (2) The non-citizen has resided in the United States for 3 years since the date of admission for permanent residence as established by the Immigration and Naturalization Service.
 - (3) The non-citizen becomes blind or disabled (as defined for SSI/SSP purposes) after admission to the United States.
- .73 Income excluded from deeming from an ineligible parent or spouse includes all of the following:
 - .731 All of the income exclusions listed in MPP Sections 49-035.4 and 49-035.53.
 - .732 Any public income-maintenance payments, except SSI/SSP that the ineligible spouse receives, and any income which was counted or excluded in figuring the amount of that benefit.
 - .733 Income used to comply with the terms of court-ordered support.
 - .734 In-kind support and maintenance.
 - .735 IHSS paid to the ineligible spouse or parent(s) for providing chore, attendant or homemaker services to the applicant or recipient.
- .74 Income excluded in deeming from a sponsor includes only income excluded under other Federal laws as listed in the appendix of Subpart K of 20 CFR Part 416, and certain in-kind income described in 20 CFR 416.1157(c).

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 8 CFR 213a.2(e); 20 CFR 416.202; 20 CFR 416.1103; 20 CFR 416.1104; 20 CFR 416.1110 through .1112; 20 CFR 416.1120; 20 CFR 416.1124; 20 CFR 416.1130; 20 CFR 416.1131; 20 CFR 416.1132; 20 CFR 416.1140; 20 CFR 416.1157; 20 CFR 416.1160; 20 CFR 416.1161; 20 CFR 416.1165, 20 CFR 416.1166a(c) and (d)(3); P.L. 104-193, Section 421(b) and (f), (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); Section 1621 of the Social Security Act, and Sections 18940 and 18941, Welfare and Institutions Code.

49-040 RESOURCES**49-040**

- .1 To be eligible for CAPI, an individual's or couple's non-excludable resources must not exceed \$2,000 for an individual or \$3,000 for a couple.
- .11 Detailed resource rules are found in 20 CFR, Part 416, Subpart L.
- .2 The definition of resources for CAPI purposes is the same as the one used for SSI/SSP and is found in 20 CFR 416.1201(a) and (a)(1).

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- .21 20 CFR 416.1201(a) states:

"(a) Resources; defined. For purposes of this subpart L, resources means cash or other liquid assets or any real or personal property that an individual (or spouse, if any) owns and could convert to cash to be used for his or her support and maintenance."

- .22 20 CFR 415.1201(a)(1) states:

"(a)(1) If the individual has the right, authority or power to liquidate the property or his or her share of the property, it is considered a resource. If a property right cannot be liquidated, the property will not be considered a resource of the individual (or spouse)."

- .23 20 CFR 416.1201(b) states:

"(b) Liquid resources are cash or other property which can be converted to cash within 20 days, excluding certain nonwork days as explained in 20 CFR 416.120(d). Examples of resources that are ordinarily liquid are stocks, bonds, mutual fund shares, promissory notes, mortgages, life insurance policies, financial institution accounts (including savings, checking, and time deposits, also known as certificates of deposit) and similar items. Liquid resources, other than cash, are evaluated according to the individual's equity in the resources."

- .24 20 CFR 416.1201(c) states:

"(c) Nonliquid resources are property which is not cash and which cannot be converted to cash within 20 days excluding certain nonwork days as explained in 20 CFR 416.120(d). Examples of resources that are ordinarily nonliquid are loan agreements, household goods, automobiles, trucks, tractors, boats, machinery, livestock, buildings and land. Nonliquid resources are evaluated according to their equity value except as otherwise provided. (See 20 CFR 416.1218 for treatment of automobiles.)"

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49-040 RESOURCES (Continued)**49-040**

HANDBOOK CONTINUES

.25 20 CFR 416.1201(c)(2) defines equity value of an item as:

"(c)(2) the price that item can reasonably be expected to sell for on the open market in the particular geographic area involved, minus any encumbrances."

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.3 In determining the resources of an individual or couple the following items are excluded:

- (a) The home and any adjoining land as long as the applicant recipient is residing in the home.
- (b) Household goods and personal effects to the extent their total value does not exceed \$2,000.
 - (1) A wedding ring, an engagement ring, and any device such as a wheelchair, hospital bed, or dialysis equipment that is needed due to the applicant's physical condition is excluded in determining the value of household goods and from resources in general.
- (c) One automobile if it meets one of the following conditions:
 - (1) It is necessary for employment.
 - (2) It is necessary for the medical treatment of a specific or regular medical problem.
 - (3) It is modified for operation by or transportation of a handicapped person.
 - (4) It is necessary to perform essential daily activities.
 - (5) Its current market value does not exceed \$4,500.
 - (A) If the market value exceeds \$4,500, only the excess is counted against the resource limit.
- (d) Property of a trade or business that is essential to the means of self-support.
- (e) Non-business property essential to the means of self support if the person's equity is less than \$6,000 and the property produces at least a 6 percent rate of return.
- (f) Resources of a blind or disabled person which are necessary to fulfill an approved plan for achieving self support.
- (g) Stock in regional or village corporations held by Alaskan natives.

49-040 RESOURCES (Continued)**49-040**

- (h) The cash surrender value of life insurance policies if the combined face values of the policies do not exceed \$1,500 for any one person.
 - (1) In determining the face value of the life insurance policies, term insurance will not be taken into account.
 - (i) Restricted allotted Indian lands.
 - (j) Payments as required by other federal statutes (see 20 CFR 416.1236 for a detailed list).
 - (k) Disaster relief assistance and any interest earned on the assistance.
 - (l) Burial spaces and burial space items.
 - (m) Up to \$1,500 each set aside for burial expenses of the individual or the individual's spouse.
 - (1) The funds must be kept separate from all other resources and clearly designated for the individual's or spouse's burial expenses.
 - (2) If the individual is an eligible child, the exclusion also includes burial funds set aside for the child's parent or parent's spouse.
 - (n) Title II Social Security, SSI/SSP (received by a spouse or parent), or CAPI retroactive payments for 6 months following the month of receipt.
 - (o) Earned income tax credits for the month following the month of receipt.
 - (p) Federal Housing subsidies.
 - (q) Payments from a state fund to aid victims of crime for a period of 9 months following the month of receipt.
 - (r) Relocation assistance for a period of 9 months following the month of receipt.
- .4 The resources of any applicant or recipient are deemed to include the resources of a spouse who is living in the same household regardless of whether or not the resources are actually made available to the applicant or recipient.
- .5 The resources of any applicant or recipient under the age of 18 are deemed to include the resources of any ineligible parent (or the ineligible spouse of such parent) who is living in the same household as the child regardless of whether or not the resources are actually made available to the applicant or recipient.

49-040 RESOURCES (Continued)

49-040

- .51 The resources from the parent are deemed to the child only to the extent they exceed:
 - .511 The resource limit for an individual when the child lives with just one parent.
 - .512 The resource limit for a couple when the child lives with both parents (or one parent and the parent's spouse).
- .6 The following exclusions apply to resources to be deemed from a spouse or ineligible parent:
 - .61 The same resource exclusions listed in MPP Section 49-040.3.
 - .62 Pension funds belonging to an ineligible spouse or parent.
 - .621 Pension funds are defined as funds held in individual retirement accounts (IRA) or in work-related pension plans.
- .7 The resources of any non-citizen are deemed to include the resources of the non-citizen's sponsor(s) regardless of whether they live in the same household and regardless of whether the sponsor(s) actually make the resources available to the applicant or recipient.
 - .71 The same resource exclusions listed in MPP Section 49-040.3 apply to the sponsor(s)' resources.
 - .72 The resources of the sponsor's spouse are also included if the sponsor and his or her spouse live in the same household.
 - .73 The resources of the sponsor (and spouse, if any) are only counted to the extent they exceed the applicable resource limits of \$2,000 for an individual or \$3,000 for a couple.
- .8 Resource determinations are made as of the first moment of the month based on what assets an individual has, what their values are, and whether any of the items can be excluded as of the first moment of the month.
 - .81 Any increase or decrease in the value of a resource during the month is counted as of the first moment of the next month.

49-040 RESOURCES (Continued)**49-040**

- .82 Items received during a month are counted first under the income rules and then if retained, counted as a resource as of the first moment of the following month.
- .83 If an applicant or recipient sells, exchanges, or replaces a resource, the receipts are not income. They are still considered to be a resource.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 20 CFR 416.1201; 20 CFR 416.1202; 20 CFR 416.1204; 20 CFR 416.1205; 20 CFR 416.1207; 20 CFR 416.1210 through 416.1239; Section 1631(a)(3) of the Social Security Act, and Section 18940, Welfare and Institutions Code.

49-045 FILING FOR OTHER BENEFITS**49-045**

- .1 To be eligible or remain eligible for CAPI, an individual must file for SSI/SSP benefits, and appeal SSI/SSP benefit decisions, if the county makes the referral to do so.
 - .11 Filing for SSI/SSP also includes cooperating with the Social Security Administration by providing all requested information and evidence.
 - .12 The county must refer any CAPI applicant or recipient who they believe to be eligible for SSI/SSP to file for SSI/SSP regardless of any previous determinations by the Social Security Administration.
 - .13 Any CAPI applicant or recipient who has been denied SSI/SSP because of a determination that he or she is not disabled must be referred to file an appeal of the disability decision.
 - .14 Individuals are eligible or remain eligible for CAPI benefits while the SSI/SSP claim or appeal of an immigration status or disability issue is pending, as long as the individual fully cooperates in the application and administrative appeal process of the Social Security Administration.
 - .15 An applicant or recipient who does not file for SSI/SSP within 30 days of receiving the county referral is not eligible or does not remain eligible for CAPI, unless the county determines that a good reason exists for not filing within the 30-day period.
- .2 Counties are required to determine if a recipient would benefit from county advocacy activities in his or her effort to become eligible for SSI/SSP.
 - .21 Counties are required to determine which advocacy activities would most likely help CAPI recipients become eligible for SSI/SSP, and to provide those activities. The allowable advocacy activities are:

49-045 FILING FOR OTHER BENEFITS (Continued)**49-045**

- .211 Assist the recipient in completing SSI/SSP appeal forms.
 - .212 Refer recipients to a panel of attorneys to provide representation at an SSI/SSP hearing.
 - .213 Assist in collecting medical and psychological records for the recipient after the recipient's initial SSI/SSP denial. This activity does not include providing transportation or accompaniment for the recipient to or from medical appointments.
 - .214 Assist the recipient in scheduling medical/psychiatric appointments after the recipient's initial SSI/SSP denial. This activity does not include providing transportation or accompaniment for the recipient to or from medical appointments.
 - .215 Assist the recipient in arranging for transportation to medical appointments after the recipient's initial SSI/SSP denial. This activity does not include providing transportation or accompaniment for the recipient to or from medical appointments.
 - .216 Submit completed forms to SSI and the State Disability Determination Office.
 - .217 Act as a liaison with SSA and the State Disability Determination Office to ensure that all SSI related requirements are met for SSI approval.
 - .218 Assist the client in obtaining citizenship. This assistance is limited to making referrals to the Immigration and Naturalization Service, assisting in completion of required citizenship documents, and making referrals to citizenship courses. It does not include payment for courses or providing transportation or accompaniment for the recipient to or from registration or classes.
- .3 To be eligible or remain eligible for CAPI, an individual must file for all other benefits for which he or she may be entitled when the county makes a referral.
- .31 Other benefits include any payments for which an individual can apply that are available on an ongoing or one-time basis such as annuities, pensions, retirement benefits, disability benefits, unemployment or worker's compensation, and Social Security benefits.
 - .32 The county must refer any CAPI applicant or recipient who they believe to be eligible for another benefit to file for that benefit.

49-045 FILING FOR OTHER BENEFITS (Continued)**49-045**

- .33 Filing for other benefits also includes cooperating with the other agency by providing all requested information and evidence.
- .34 An applicant or recipient who does not file for the other benefit within 30 days of receiving the county referral is not eligible or does not remain eligible for CAPI, unless the county determines that a good reason exists for not filing within the 30-day period.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code.
Reference: 20 CFR 416.210 and Sections 18938, 18939, and 18940, Welfare and Institutions Code.

49-050 LIVING ARRANGEMENTS AND BENEFIT CATEGORIES**49-050**

- .1 CAPI payment standards are equivalent to SSI/SSP payment standards, except that:
 - .11 The payment standards for individuals are \$10 less than the SSI/SSP payment standards for individuals.
 - .12 The payment standards for eligible couples are \$20 less than the SSI/SSP payment standards for eligible couples.
 - .13 The payment standards for couples when one member is receiving or applying for CAPI and the other is receiving SSI/SSP is \$10 less than the SSI/SSP payment standards for eligible couples.
- .2 A person's living arrangement affects which CAPI payment standard is selected to determine the individual's benefit amount. Living arrangements are always determined as of the first moment of the month and that determination is the basis for the payment standard used for that month, subject to the throughout-a-month rule for institutions or reduced needs living arrangements. The living arrangements for CAPI described below are determined in the same manner as they are for SSI/SSP.
 - .21 Independent living means that one of the following conditions applies to the person (or spouse or parent whose income is deemed to the applicant or recipient living in the same home):
 - .211 Has ownership interest in the home.
 - .212 Has rental liability.
 - .213 Lives alone.
 - .214 Lives with others and pays a pro rata share of the shelter and/or food expenses.

49-050	LIVING ARRANGEMENTS AND BENEFIT CATEGORIES	49-050
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(Continued)

- .215 Lives with others and all members of the household receive public income maintenance payments.
- .22 Independent living without cooking facilities means that the aged or disabled individual meets one of the criteria in Section 49-050.21, does not have a stove and refrigerator available for his or her use, and does not have meals provided as part of the living arrangement.
- .221 Detailed provisions are found in MPP Section 46-160.
- .23 Reduced needs with in-kind room and board means that none of the conditions listed in MPP Section 49-050.21 apply and the applicant (or parent, if the applicant is a minor child) is living in the household of another (relative or non-relative) for a full calendar month and receiving both food and shelter as described in MPP Section 49-035.521.
- .231 This living arrangement does not apply if the person supplying the support and maintenance is the spouse of the recipient or applicant, or parent if the recipient or applicant is a minor child.
- .24 Nonmedical out-of-home care means receiving room, board and care and supervision related to the person's individual needs in a licensed nonmedical facility, or the home of a relative.
- .241 Detailed provisions are found in MPP Section 46-140.
- .242 The reduced needs nonmedical out of home care payment standard applies to persons who meet the conditions in MPP Section 49-050.23 above and are receiving care and supervision while living in the home of a relative.
- .243 The higher nonmedical out-of-home care payment standard applies to all other persons who receive care and supervision in a licensed facility, or who live in the home of a relative and meet one of the conditions listed in MPP Section 49-050.214 or .215 above.
- .25 The disabled child payment standard applies to all disabled children under age 18 who are living with a parent, guardian, or relative by blood or marriage.
- .251 The reduced needs payment standard for children may apply to children living with a parent(s) if the parent meets the conditions in MPP Section 49-050.23 above.

49-050	LIVING ARRANGEMENTS AND BENEFIT CATEGORIES	49-050
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(Continued)

- .252 One of the nonmedical out-of-home care payment standards may apply to children living with a non-parent relative or guardian if the conditions described in MPP Section 49-050.24 above are met.
- .253 Benefits for blind children are determined using the payment standards for blind adults.
- .26 The Title XIX medical facility payment standard applies to persons who reside throughout a month in a medical facility and Medi-Cal (title XIX of the Social Security Act) pays more than 50 percent of the cost of the person's care.
- .261 An exception to the Title XIX medical facility rule applies, and one of the other payment standards would be used when a recipient is temporarily confined for medical care and all of the following apply:
- (a) The individual must have been eligible for CAPI benefit under one of the higher payment standards in the month prior to entering a facility where the Title XIX facility rate would apply.
 - (b) A physician must certify that the recipient is expected to be medically confined for 90 consecutive days or less.
 - (c) The recipient must demonstrate that he or she needs to pay some or all of the expenses of maintaining the home or living arrangement to which he or she may return.
- .27 Higher CAPI payment standards apply for blind individuals, or couples where at least one member is blind, if the individual or couple is in either the independent living or reduced needs household of another living arrangement.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 20 CFR 416.414; 20 CFR 416.1131 - 416.1132; 20 CFR 416.1148; Section 1611(e)(1)(G) of Title XVI of the Social Security Act, and Sections 12200, 12201.5, 18940, and 18941, Welfare and Institutions Code.

49-055 BENEFIT DETERMINATIONS**49-055**

- .1 Retrospective monthly accounting is used in determining the CAPI benefit amount. This means that as a general rule the individual's or couple's countable income received two months prior to the current month is used to determine the CAPI benefit in the current, or payment, month.
 - .11 The month that is two months prior to the current month will be referred to as the budget month.
- .2 The following exceptions apply to the retrospective monthly accounting rule:
 - .21 For the first two months of initial eligibility, the budget and payment months will be the same.
 - .22 In-kind support and maintenance received in the budget month is not used to further reduce a CAPI payment that is already reduced in the payment month because the individual is in the reduced needs household of another living arrangement.
 - .23 Deemed income from an ineligible spouse from the budget month is not counted in determining CAPI benefits effective with the month after the month the ineligible spouse dies.
 - .24 Deemed income from an ineligible parent from the budget month is not counted in determining CAPI benefits effective with the month after the month the ineligible parent dies, or after the month child attains age 18.
- .3 The CAPI benefit is calculated in the following manner:
 - .31 Determine the correct payment standard for the payment month based on the applicant's or recipient's living arrangement for that month.
 - .32 Subtract the individual's, or couple's, countable income from the budget month from the payment standard for the current month (subject to the exceptions listed in MPP Section 49-055.2).
 - .33 The difference is the CAPI benefit amount for that month.
- .4 Each member of an eligible couple receives one-half of the couple's benefit amount.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code.
Reference: 20 CFR 416.420(a); 20 CFR 416.502, and Section 18940, Welfare and Institutions Code.

49-060	BENEFIT SUSPENSIONS AND TERMINATIONS	49-060
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- .1 A recipient's CAPI benefit shall be suspended when any of the following events occur.
- (a) The recipient becomes a citizen.
 - (b) The recipient's income in the budget month exceeds the appropriate payment standard in the payment month.
 - (c) The recipient fails to provide proof of application for SSI/SSP benefits or fails to take all necessary steps to obtain SSI/SSP benefits.
 - (d) The recipient becomes eligible for SSI/SSP benefits.
 - (e) The recipient fails to cooperate with the county's request for information or documentation.
 - (f) The recipient is a resident of a public institution for an entire calendar month.
 - (g) The recipient is no longer a California resident.
 - (h) The sponsor's status no longer meets the qualifying conditions outlined in MPP Section 49-020.31.
 - (i) The recipient's resources exceed the allowable limit.
 - (j) The recipient is fleeing to avoid prosecution for a felony or is violating a condition of probation or parole.
 - (k) The recipient fails to file for all other possible benefits.
- .2 An individual has 12 consecutive months after the effective date of the suspension to regain eligibility and have benefits reinstated without having to file a new application. An individual requesting reinstatement must submit such evidence as may be necessary (except evidence of age, disability or blindness) to re-establish his or her eligibility. Payments to such recipient shall be reinstated effective with the first day he or she meets all eligibility requirements except filing for a new application.
- .3 Eligibility is terminated for a recipient after 12 consecutive months of benefit suspension when the recipient dies, when the recipient under age 65 is no longer blind or disabled, or when the recipient asks to voluntarily terminate his or her CAPI benefits.

49-060	BENEFIT SUSPENSIONS AND TERMINATIONS (Continued)	49-060
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- (a) A new application shall be filed to re-establish eligibility following termination, unless there is a favorable appeal decision.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 20 CFR 416.1323; 20 CFR 416.1324; 20 CFR 416.1325; 20 CFR 416.1330; 20 CFR 416.1331; 20 CFR 416.1333 through .1335; P.L. 104-193, Section 202 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and Sections 18937, 18938, and 18940, Welfare and Institutions Code.

49-065	INTERIM ASSISTANCE REIMBURSEMENT	49-065
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- .1 The Social Security Administration provides interim assistance reimbursement by withholding all or part of a recipient's SSI/SSP payment to repay states or counties for any interim assistance paid while the SSI/SSP application was pending, or while the SSI/SSP benefits were suspended if the person is subsequently found to be eligible, if certain conditions are met.

- .11 The following definition of interim assistance is found in 20 CFR 416.1902:

"*Interim assistance* means assistance the State gives you, including payments made on your behalf to providers of goods or services, to meet your basic needs, beginning with the day of the month you apply for SSI benefits and are eligible for them, and ending with, and including, the month your SSI benefit payments begin, or assistance the State gives you beginning with the day for which your eligibility for SSI benefits is reinstated after a period of suspension or termination and ending with, and including, the month the Commissioner makes the first payment of benefits following the suspension or termination if it is determined subsequently that you were eligible for benefits during that period. It does not include assistance the State gives to or for any other person. If the State has prepared and cannot stop delivery of its last assistance payment to you when it receives your SSI benefit payment from us, that assistance payment is included as interim assistance to be reimbursed. Interim assistance does not include assistance payments financed wholly or partly with Federal funds."

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- .2 Counties must take all necessary steps to qualify any CAPI benefits paid for federal interim assistance reimbursement. These steps include:

49-065	INTERIM ASSISTANCE REIMBURSEMENT (Continued)	49-065
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- .21 Obtaining a signed authorization form from the applicant or recipient.
- .22 Forwarding the signed authorization form (or approved electronic authorization) to the Social Security Administration.
- .23 Crediting or refunding any federal interim assistance reimbursement received for CAPI payments to the state.
- .3 The state will provide its own interim assistance reimbursement to counties who provide interim assistance during the period of time that an individual's initial application is pending, or during a period of CAPI payment suspension prior to reinstatement. The reimbursement period begins with the first month of CAPI eligibility, and ends with, and includes, the month that the individual's CAPI payments begin.
 - .31 Interim assistance, for purposes of state reimbursement, means any financial assistance the county provides to the CAPI applicant during the period beginning with the first month of CAPI eligibility, and ending with, and including, the month that the individual's CAPI payments begin.
 - .32 The interim assistance for state reimbursement does not include any payments financed wholly or partly with federal or state funds.
 - .33 For a county to receive state interim assistance reimbursement, the county must do all of the following:
 - .331 For applications filed on or after March 4, 1999, obtain a signed authorization form (SOC 455) from the applicant or recipient.
 - .332 For applications filed prior to March 4, 1999, counties were required to obtain both: 1) the SSP 14 or replacement form authorizing SSA to reimburse from the individual's SSI/SSP check to the county for GA expenditures made during the SSI/SSP eligibility period, and 2) the IAR part of CAPI form SOC 451 authorizing SSA to reimburse from the individual's SSI/SSP check to the county, on behalf of the state, for CAPI expenditures made during the SSI/SSP eligibility period.)
 - .333 Issue, or request issuance of, a net retroactive CAPI payment (after withholding the amount of the interim assistance owed to the county) directly to the recipient within 10 working days of the date CAPI eligibility and payment amount have been determined.
 - .334 Not delay issuance of a CAPI check solely to obtain a signed authorization form.

49-065	INTERIM ASSISTANCE REIMBURSEMENT (Continued)	49-065
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- .335 Provide proper notification concerning the withholding of the interim assistance amount on the approval notice to the applicant or recipient.
- .336 Consortia of CAPI counties must notify the county requesting reimbursement as soon as CAPI eligibility or ineligibility is determined, and obtain the amount of the interim assistance.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 20 CFR 416.1901; 20 CFR 416.1902; 20 CFR 416.1904, and Sections 18938 and 18940, Welfare and Institutions Code.

49-070	REDETERMINATIONS	49-070
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- .1 A recipient's eligibility must be redetermined within 12 months of the recipient's initial benefit payment date and within each succeeding 12-month period.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: Section 18938, Welfare and Institutions Code.